

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

ADS HOLDINGS, INC.,

CIVIL No. 06-3715 (ADM/AJB)

PLAINTIFF,

v.

**REPORT AND  
RECOMMENDATION**

FEDERAL INSURANCE COMPANY,

DEFENDANT.

This matter is before the Court, United States Magistrate Judge Arthur J. Boylan, on Federal Insurance Company's ("Federal") Motion to Exclude Plaintiff's, Advanced Duplication Services ("ADS"), Expert Richard Wilkinson [Docket No. 132]. A hearing was held on January 17, 2008, in the United States Courthouse, 300 South Fourth Street, Minneapolis, MN 55415. Joshua Mallin, Esq. and George Warner, Esq. represented ADS. David Bland, Esq., and Stacey Slaughter, Esq., represented Federal.

Based upon the record, exhibits, memoranda, and oral arguments of counsel, and incorporating the Court's findings from its Order dated March 28, 2008, [Docket No. 208], concerning said motion

**IT IS HEREBY RECOMMENDED** that:

A negative inference instruction be given to the jury regarding ADS' failure to disclose information required by Fed. R. Civ. P. 26(e)(1).

Dated: April 1, 2008

s/ Arthur J. Boylan  
Arthur J. Boylan  
United States Magistrate Judge

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties, written objections which specifically identify the portions of the Report to which objections are made and the bases for each objection. This Report and Recommendation does not constitute an order or judgment from the District Court and it is therefore not directly appealable to the Circuit Court of Appeals. Written objections must be filed with the Court before April 14, 2008.